

UNITED DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JOE FLORES

Civil Action No.:

Plaintiff

v.

WALMART, INC.

Div. Juris 28 U.S.C. § 1332

Defendant

COMPLAINT FOR DAMAGES

COMES NOW, JOE FLORES, Plaintiff who files this Original Complaint for Damages against,

WALMART, INC. and Defendant and shows this Court the following:

Statement of Subject Matter Jurisdiction

Plaintiff, JOE FLORES is a person of full age and a citizen of the city of Princeton, State of Texas.

Plaintiff alleges acts of negligence against:

First Named Defendant, WALMART, INC. foreign corporation founded and incorporated in the State of Arkansas, USA authorized to do and doing and whose principal place of business in the State of Texas is Dallas County, State of Texas; and who is at all times responsible for the damages complained of herein; and thus pursuant to 28 U.S.C., 1332, there exist diversity of citizenship of the parties. Thus venue is Proper in the United States District Court for the Northern District of Texas, Dallas Division.

Federal Jurisdiction and Venue

WALMART, INC. made defendant herein and assumed all the liabilities, debts, and

obligations of and owns and had care custody and control of the Walmart Store located at municipal address at 6001 Central Expressway, Plano, Collins County, State of Texas the location of the incident made basis of this lawsuit.

Additionally, the amount in controversy as to each party in this matter exceeds the jurisdictional limits of this Honorable Court of \$75,000.00.

This Honorable Court has subject matter jurisdiction over this claim which is within the territorial bounds of this Honorable Court.

COUNT 1

Plaintiff alleges premises liability against Defendant, WALMART, INC. is a made, Defendant is liable unto plaintiff for a reasonable sum in the premises, together with legal interest thereon from date of judicial demand until paid, and for all costs of these proceedings for the following reasons to wit.

1.

On or about January 16, 2020 at 12:30 p.m. Plaintiff, JOE FLORES was a lawful invitee and patron of WALMART, INC. store located at 6001 Central Expressway, Plano, Collins County, State of Texas.

2.

While Plaintiff, JOE FLORES was walking towards the men's restroom in the Walmart Store when suddenly unexpectedly and without warning defendant's employee acting as a cleaning lady and acting within the course and scope of employment, struck plaintiff forcefully with her cleaning cart causing him to fall striking the ground hard and causing serious to his person.

3.

Defendant, **WALMART, INC.** owed a duty of reasonable care to its patrons and invitees to not strike them with the employee cleaning carts causing them to fall and strike the ground har at the Walmart Store located 6001 Central Expressway, Plano, Collins County, State of Texas and was aware of plaintiff's presence as a patron and a lawful invitee.

4.

The subject liquid soap was known by defendant's employees and thus constituting failure on the part of Defendant, **WALMART, INC.** to act with ordinary care under the theory of respondeat superior thereby making said defendant vicariously responsible.

5.

The aforementioned Defendant, **WALMART, INC.** is liable for its own negligence for things in its care, custody and control; and for the negligent acts of its employees agents and representatives;

6.

Defendant, **WALMART, INC.** is liable unto Petitioner for its own negligence, the negligence of its employees, which includes but is not limited to the following:

- a. Failure to take the necessary precautions to avoid the incident made the basis of this litigation even after they knew or should have known that failing to see what they should have scene causing a hazardous conditions;
- b. Failure to make a timely installation of warning signs or postings informing invitees and patrons that a hazardous condition existed, which was not open and obvious to patrons, invites and guest as they entered the aisle when gazing from a normal look out distance;
- c. Failure to take the necessary precautions to avoid the incident made the basis of this litigation even after they knew or should have known;

- d. Failure to make a timely installation of warning signs or postings informing invitees that a hazardous condition existed;
- e. Failure to exercise reasonable vigilance;
- f. Failure to properly train and educate employees;
- g. Negligent hiring of incompetent employees;
- h. Failure to maintain things in their care, custody, and control;
- i. Any and all other acts of negligence which might be shown at the time of this trial.

7.

As a result of the aforementioned negligence, Plaintiff, JOE FLORES was struck and knocked to the ground and seriously injured his lower back, neck and knees requiring, along including cartilage damage, pain, and reduced mobility and may need invasive surgical procedures and experiences ongoing and enduring pain that will last a lifetime. These injuries were proximately caused by negligence of the Defendant in not exercising ordinary care toward a foreseeably dangerous condition resulting in extensive medical treatment and damages.

8.

Plaintiff JOE FLORES is entitled to an amount in damages reasonably calculated to compensate him for injuries he sustained, including but not limited to;

- a. Past, Present and future loss of household services in the past and future.
- b. Past, present and future mental pain, suffering and anguish;
- c. Past, present and future physical pain and suffering and loss of function;
- d. Past, present and future medical expenses;
- e. Loss of enjoyment of life; and
- g. Any and all other damages cognizable by the Constitution of the State of Texas and the

United States Constitution.

9.

Petitioner avers amicable demand to no avail.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Joe Flores, prays that this Petition be filed and that Defendant, WALMART, INC. be duly cited and served with a copy of same, to appear and answer same and after all legal delays and due proceedings are had that there be judgment herein in favor of Petitioner, Joe Flores, and against Defendant, WALMART, INC. in an amount reasonably calculated to compensate Petitioner for his damages, together with legal interest thereon, from date of judicial demand until paid and for all costs of the proceedings and all general and equitable relief this Honorable Court deem necessary.

Respectfully submitted,

**DENNIS SPURLING PLLC
ATTORNEY AT LAW AND FRIENDS**

/s/Dennis D. Spurling

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Please Serve:

Walmart, Inc.
Through Its Agent for Service of Process:
CT Corporation Systems
1999 Bryan Street Suite 900
Dallas, Texas 75201 - 3136